

REMARKS

This response is being timely filed (November 12, 2006 falls on a Sunday).

Claims 1 and 3-13 are pending in the present application, wherein claim 2 has been previously canceled.

Election/Restriction

The Examiner has required election in the present application between:

Group I, claims 1 and 3-7, drawn to a process and bactericidal composition;

Group II, claims 8, 9, 12 and 13, drawn to a food; and

Group III, claims 10 and 11, drawn to process including cutting or grinding of a plant to a smaller size and disintegrating a portion of it.

Election with Traverse

For the purpose of examination of the present application, Applicants elect Group I, claims 1 and 3-7 with traverse.

The Examiner states that Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the Groups lack the same or corresponding special technical features. Specifically, the Examiner states that Group II is a different product than that of Group I, and that Groups I and III have different process steps.

Applicants respectfully submit that if the product of Group I is found allowable, then any other product having the Group I product is allowable as well. Or, if a composition itself is

novel, any food containing that composition is also novel. In other words, the assertion that Group II is a different product than that of Group I is not a proper basis for the instant Restriction Requirement.

Regarding Groups I and III, Applicants respectfully submit that claims 1 and 10 have the same specific technical feature, e.g., to produce an antibacterial substance from plant by disintegrating the plant tissue with an enzyme capable of acting on protopectin and releasing the antibacterial substance from the plant tissue.

As can be seen from the present specification at page 3, lines 15-22, the antibacterial substance is solubilized from middle lamellae (which is composed of protopectin, and bonds plant cells and forms plant tissue) when the enzyme acts on the plant tissue. Therefore, it is obvious that instantly pending claim 10 is directed to single plant cells that are isolated when the enzyme acts on protopectin in middle lamellae (in plant tissue) during the process of pending claim 1.

Further, these claims 1 and 10 share or contain the same steps, which are cutting or grinding the plant into an appropriate size and disintegrating at least a part of tissue of the plant for releasing the antibacterial substance. Thus, claim 10 should be rejoined with elected claim 1 of Group I.

Reconsideration and withdrawal of this Restriction Requirement are respectfully requested.

Application No. 10/069,182
Art Unit 1651
Reply to Office Action of October 12, 2006

Docket No.: 0397-0441P

Conclusion


In view of the above, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: November 13, 2006

Respectfully submitted,

By 

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